

EXHIBIT B

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - MERCER COUNTY
IND. NO. 09-11-1101

THE STATE OF NEW JERSEY,)
)
)
VS.)
)
GUY WILLIAMS,)
)
Defendant.)

STENOGRAPHIC TRANSCRIPT
OF
MOTION TO SUPPRESS

PLACE: Mercer County Courthouse
209 South Broad Street
Trenton, New Jersey
DATE: April 11, 2011

B E F O R E:

HONORABLE EDWARD M. NEAFSEY, J.S.C.

Transcript Ordered By:

Graham F. Baird, Esquire
Weisberg Law, P.C.

A P P E A R A N C E S:

JOSEPH L. BOCCHINI, JR.,
PROSECUTOR - MERCER COUNTY
By: TIMOTHY P. WARD, ASSISTANT PROSECUTOR
For the State of New Jersey

E. AUSTIN BELMONT, ESQUIRE
(Office of the Public Defender)
For the Defendant

* * * * *

ROSEMARIE LEVANDOWSKI, C.C.R., C.R.C.R.
Mercer County Courthouse
209 South Broad Street
Trenton, New Jersey 08650

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COLLOQUY

3

1 THE CLERK: All rise.

2 THE COURT: Good afternoon. You may be
3 seated.

4 All right. Counsel, are we ready on this
5 motion?

6 MR. WARD: We are, your Honor.

7 THE COURT: All right. State versus
8 Guy Williams. Your appearances.

9 MR. WARD: Good afternoon, your Honor.
10 Assistant Prosecutor Timothy Ward for the state.

11 MR. BELMONT: E. Austin Belmont, Assistant
12 Deputy Public Defender, on behalf of Mr. Williams,
13 your Honor, seated in the jury box.

14 THE COURT: This is a warrantless search.
15 The prosecutor has the burden. Call your witness,
16 Prosecutor.

17 MR. WARD: Your Honor, the state calls
18 Kenneth Lugo.

19 THE COURT: Kenneth Lugo.

20 THE CLERK: You do solemnly swear the
21 testimony you're about to give the Court in this matter
22 shall be the truth, the whole truth, and nothing but
23 the truth so help you God?

24 THE DEFENDANT: I do.

25 K E N N E T H L U G O, STATE'S WITNESS, SWORN.

LUGO - DIRECT - WARD

4

1 THE CLERK: Please state your name for the
2 record.

3 THE WITNESS: Kenneth Lugo.

4 THE CLERK: Thank you.

5 THE COURT: Go ahead, Prosecutor.

6 MR. WARD: Thank you, your Honor.

7 DIRECT EXAMINATION BY MR. WARD:

8 Q Who are you employed by, sir?

9 A City of Trenton, Trenton Police Department.

10 Q And what is your current rank?

11 A Detective.

12 Q How long have you been a detective with the
13 Trenton Police Department?

14 A Since September of 2008.

15 Q And prior to that, what was your rank?

16 A Officer.

17 Q How long were you an officer with the
18 Trenton Police Department?

19 A I started in 1986, left in 1994. I was an
20 officer in Arizona. And then I came back in 2003 and
21 re-joined Trenton.

22 Q When you started in 1986 with Trenton as an
23 officer, was that your first police department
24 employment?

25 A Yes.

LUGO - DIRECT - WARD

5

1 Q Now, were you employed by the
2 Trenton Police Department back in May of 2009?

3 A Yes.

4 Q Do you recall what unit you were assigned
5 to at that time?

6 A I was in the Quick Response Team.

7 Q What was the Quick Response Team?

8 A It was a unit that was formed to respond to
9 citizen's complaints regarding narcotics, prostitution
10 and something that, you know, we would get a call, we
11 would go out and look at it.

12 Q Did the Quick Response Team engage in
13 long-term investigations?

14 A We had always said if it was going to take more
15 than a week, we really didn't want to take part in it,
16 that it was probably something better suited for our
17 vice unit.

18 Q Now, how would the Quick Response Team
19 typically go about receiving information that would
20 lead to investigations?

21 A Phone calls from citizens; things would come into
22 Tipsoft, which is an anonymous phone line. And the
23 Vice Enforcement Unit, if they didn't think it was
24 something that they needed to handle, they would send
25 it us, or from citizen complaints or from informants.

LUGO - DIRECT - WARD

6

1 Q When you say informants, are you referring
2 to confidential informants?

3 A Yes, sir.

4 Q Just briefly describe, so the record is
5 clear, what you mean by a confidential informant.

6 A Confidential informant is someone who wishes to
7 remain anonymous, but will make phone calls and give
8 information on individuals who may be carrying
9 narcotics or houses where narcotics are being sold,
10 prostitution, just different types of crimes.

11 Q I'd like to refer your attention to May 2nd
12 of 2009, at approximately 9:25 p.m. Were you on duty
13 at that time?

14 A Yes, I was.

15 Q And at around that time, did you receive a
16 telephone call from Sheehan Miles?

17 A Yes, I did.

18 Q And who is Sheehan Miles?

19 A At the time he was my partner. He was also a
20 detective.

21 Q And was he part of the Quick Response Team
22 like you?

23 A Yes.

24 Q Was Miles on duty at that time?

25 A No, he wasn't.

LUGO - DIRECT - WARD

7

1 Q Now, do you recall where you were when you
2 received a phone call from Detective Miles?

3 A We were in our office, which is located in police
4 headquarters.

5 Q On Clinton?

6 A Yes.

7 Q And when you received that phone call from
8 Miles, what, if anything, did he tell you?

9 MR. BELMONT: Your Honor, I assume that
10 this otherwise hearsay will be subject to Officer Miles
11 coming in and testifying?

12 MR. WARD: It will.

13 MR. BELMONT: Then, on that basis, I won't
14 object.

15 Q What did, then, Detective Miles tell you?

16 A He told me he had received a phone call from a
17 confidential informant, informing him that there was a
18 black male on Hamilton Avenue with -- who was carrying
19 a weapon, carrying a gun.

20 Q Did he give you any additional information
21 regarding that black male carrying a gun?

22 A He gave us a description of what he was wearing;
23 baseball hat with a white "H" on it, a long-sleeve
24 white shirt with an orange T-shirt over top of it and
25 blue jeans.

LUGO - DIRECT - WARD

8

1 Q Do you recall whether he told you what
2 color the hat was that had the "H" on it?

3 A I believe he also said that was orange.

4 Q Now, when you received this information
5 from Detective Miles, what, if anything, did you do?

6 A I informed Detectives Ward and Franicevich, who
7 was also part of the Quick Response Team, and we
8 proceeded out to the area.

9 Q And how did you get out to that area?

10 A We had unmarked vehicles that we drove in.

11 Q Now, before we go any further,
12 Detective Lugo, when you were working the
13 Quick Response Team, were you, as officers, in police
14 uniform?

15 A No, we weren't.

16 Q What were you wearing?

17 A Just regular street clothes.

18 Q And I think you had mentioned unmarked
19 units. Is there any particular reason why you would
20 use unmarked units?

21 A So we could remain anonymous while we were
22 driving around watching people.

23 Q Now, you indicated yourself, Detective Ward
24 and Detective Franicevich; did you all go out there in
25 the same car?

LUGO - DIRECT - WARD

9

1 A No. I was by myself, and Detectives Ward and
2 Franicevich were in another vehicle.

3 Q Now, after you left headquarters in the
4 unmarked vehicles, where did you go?

5 A I proceeded down Chambers Street to
6 Franklin Street, and Detectives Ward and Franicevich
7 proceeded to Hamilton Avenue.

8 Q Where is Franklin Street in relation to
9 Hamilton Avenue?

10 A Franklin Street and Hamilton Avenue intersect a
11 block -- it is the first street over from
12 Chambers Street.

13 Q So, then, if you were looking at a map,
14 would Hamilton Avenue run in-between Franklin and then
15 Chambers?

16 A Yes.

17 Q And when you arrived at the area,
18 did you receive any additional information from
19 Detective Miles?

20 A Yes, I did. I had received a phone call from
21 Detective Miles stating that the black male in question
22 had been in the liquor store and he was now proceeding
23 back to Franklin Street.

24 Q Now, are you familiar with any liquor
25 stores on Hamilton Avenue near Franklin Street?

LUGO - DIRECT - WARD

10

1 A Yes.

2 Q Where is that located?

3 A That is located, I believe it's the third
4 business in from Chambers Street as you're heading
5 towards Franklin.

6 Q Now, after you received that information
7 from Detective Miles, did you share that with
8 Detective Franicevich?

9 A Yes, I did.

10 Q And how did you do that?

11 A Police radio.

12 Q And after that time, did there come an
13 occasion where Detective Franicevich advised you of
14 anything?

15 A Yes, he did.

16 Q And what was that?

17 A He advised me that he had a black male matching
18 the description on Hamilton Avenue entering the
19 Food King Chinese Restaurant.

20 Q Do you know where the Food King Chinese
21 Restaurant is located?

22 A It's 539 Hamilton Avenue; that is also before you
23 reach Franklin Street.

24 Q Now, do you recall approximately how long
25 after you received word from Detective Miles that the

LUGO - DIRECT - WARD

11

1 suspect had just left the liquor store, that
2 Detective Franicevich advised you he had an eye on
3 someone?

4 A This was approximately five minutes, maybe less.

5 Q When you received that information from
6 Detective Franicevich, what, if anything, did you do?

7 A I parked my vehicle -- well, I was already parked
8 on Franklin Street. I put on my vest, which is marked
9 "police." I put my badge around my neck. And I met
10 with Detectives Franicevich and Ward on Hamilton Avenue
11 so we could enter the Chinese restaurant.

12 Q Why did you put your vest on?

13 A To identify myself.

14 Q And how does that identify you?

15 A It is marked "police," it has a badge on it, it
16 has my name on it, plus, I had my badge hanging around
17 my neck.

18 Q Now, approximately, where did you meet
19 Detectives Franicevich and Ward?

20 A I met them at the corner of Hamilton and
21 Franklin.

22 Q And after you met with them, what, if
23 anything, did you do?

24 A Detective Franicevich and I entered the
25 restaurant and approached the individual matching the

LUGO - DIRECT - WARD

12

1 description.

2 Q Now, when you walked into the restaurant --
3 Are we talking about the Food King?

4 A Yes.

5 Q Now, when you walked into the restaurant,
6 can you describe the individual that you approached.

7 A Black male, perfect clothing description, orange
8 hat with a white "H" on it, orange T-shirt, long-sleeve
9 white shirt underneath, and jeans.

10 Q Was there anyone else in the Food King
11 Chinese Restaurant dressed in that manner?

12 A Negative.

13 Q And where was this individual in the
14 restaurant when you saw him?

15 A He was seated in a chair, waiting for his order.

16 Q What did you do when you saw him?

17 A Detective Franicevich and I approached him.
18 Detective Franicevich took hold of his left hand; I
19 took hold of his right hand and we walked out of the
20 restaurant with him.

21 Q Did he offer any resistant at that time?

22 A No.

23 Q What happened once you got outside the
24 restaurant?

25 A Once we got outside, we placed him in a pat-frisk

LUGO - DIRECT - WARD

13

1 position. And while Detective Franicevich held on to
2 his left hand, I started to a perform a pat frisk on
3 him.

4 Q Now, why did you do a pat frisk?

5 A Based on the information given, that he had a
6 weapon on him, I wanted to make sure he wasn't carrying
7 anything that could be of danger to us.

8 Q And what, if anything, did you discover
9 during the course of the pat frisk?

10 A Well, when I patted his right front pocket, I
11 could feel what I immediately recognized as a revolver.

12 Q How were you able to recognize that?

13 A Just from my experience, I grabbed it, I
14 manipulated it, and was able to tell what it was.

15 Q And as you were doing that, what, if
16 anything, was the suspect doing?

17 A He turned his head to me and said "I have a gun
18 on me."

19 Q And did you later learn the identity of
20 that suspect?

21 A Yes, I did.

22 Q Who was that?

23 A Guy Williams.

24 Q What did you do after Mr. Williams said
25 that he had a gun on him?

LUGO - DIRECT - WARD

14

1 A I removed the weapon from his pocket.
2 Detective Ward, then, stepped up and assisted
3 Detective Franicevich in handcuffing Mr. Williams. And
4 I made the weapon safe, opened up the cylinder and
5 unloaded it.

6 Q And do you recall what kind of a gun it
7 was?

8 A It was a .22-caliber revolver.

9 Q When you said that you made the gun safe
10 and unloaded it, what did that involve?

11 A I removed the six live bullets that were in it.

12 Q What did you do with them?

13 A Placed them in my vest pocket.

14 Q And what did you do with the gun?

15 A I just held on to that.

16 Q And did there come a time when you left the
17 scene of Hamilton Avenue?

18 A Yes. We called a patrol vehicle to transport
19 Mr. Williams into headquarters. Officers Crosby and
20 Renna responded; they transported him in. And then
21 Detectives Franicevich, Ward, and I proceeded into
22 headquarters to start our paperwork.

23 MR. WARD: Nothing else.

24 THE COURT: Mr. Belmont.

25 CROSS-EXAMINATION BY MR. BELMONT:

LUGO - CROSS - BELMONT

15

1 Q Detective Lugo, when you received the
2 information from Detective, was it Sean Miles or
3 Sheehan Miles?

4 A Sheehan. It is pronounced Sean. It is spelled
5 Sheehan but pronounced Sean.

6 Q Okay. You didn't know who the C.I. was,
7 correct?

8 A Correct.

9 Q And you didn't know whether or not he had
10 furnished reliable information in the past based upon
11 your conversation from Sheehan Miles, correct?

12 A I knew that he had furnished information in the
13 past. I didn't know who he was, but I knew he had been
14 an informant for, at the time, Detective Miles, and he
15 had used him before.

16 Q And did Sheehan Miles inform you as to who
17 the informant was?

18 A No.

19 Q Well, then, how could you know, based upon
20 the fact that he said that he received information from
21 a C.I., that this was a C.I. who had furnished reliable
22 information in the past?

23 A Because when information had been received, he
24 had always referred to him as "my C.I." "My C.I."
25 called me and said we need to go look at this.

LUGO - CROSS - BELMONT

16

1 Q I mean, he only had one C.I.?

2 A I don't know how many C.I.'s he had.

3 Q Well, if he had more than one, that would
4 kind of muddy the water, wouldn't it?

5 A Possibly.

6 Q So, you don't really know, of your own
7 personal knowledge, that the C.I. referred to by
8 Officer -- by Detective Sheehan Miles, had furnished
9 reliable information in the past that had led to
10 arrests for other offenses?

11 A Correct.

12 Q You don't personally know that?

13 A Correct.

14 Q Correct?

15 A Correct.

16 MR. BELMONT: That is all, your Honor. No
17 further questions.

18 THE COURT: Any redirect?

19 MR. WARD: No, your Honor.

20 THE COURT: You can step down.

21 THE WITNESS: Thank you.

22 (Witness is excused.)

23 THE COURT: Who is next, Prosecutor?

24 MR. WARD: Your Honor, the state calls

25 Sheehan Miles.